

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1341 of 1986

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

AARJIBHAI B BHARVAD

Versus

GUJARAT WATER SUPPLY & SUWREJ BOARD

Appearance:

MR PH PATHAK for Petitioner

Respondent No. 1 served.

MR DV PATEL for Respondent No. 2

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 09/09/96

ORAL JUDGEMENT

Petitioner is aggrieved by order of termination of his service made on 14th October, 1985 and has challenged the same and has claimed reinstatement in service with all consequential benefits. The facts leading to the present case are as under :

2. The respondent Board, under order dated 22nd

April, 1982 appointed the petitioner as a temporary driver for a period of 30 days. Thereafter petitioner's name was sponsored by the Social Welfare Officer, pursuant to the same, petitioner was selected and appointed as driver on work charge establishment on probation for a period of six months under order dated 2nd August, 1983. The said period of probation was further extended for a period of six months under orders dated 9th January, 1984, 9th July, 1984 and 7th January, 1985. On completion of the period of probation, under order dated 14th October, 1985, the petitioner's service was terminated with effect from 1st July, 1985.

3. The petitioner has contended that the impugned order is arbitrary and discriminatory and other drivers junior to the petitioner have been continued. The petitioner has further contended that he had not been paid regular salary and, therefore, principle of "equal pay for equal work" was violated. The petitioner has also contended that by giving appointment for six months, the respondent Board has resorted to unfair labour practice and the impugned order, therefore, requires to be quashed and set aside.

4. Upon perusal of the above referred orders of appointment, it is evident that the petitioner was appointed in the regular pay scale applicable to the drivers alongwith all the admissible allowances. Thus, the petitioner's contention that the principle of "equal pay for equal work" has been violated requires to be rejected.

5. The petitioner, having been sponsored by the Social Welfare Officer, was given an appointment on probation for a period of six months. On perusal of the affidavit made by the respondent Board, it is clear that the petitioner's service was not found satisfactory. Therefore, his period of probation was extended for a further period of six months. The petitioner was also issued several memoranda for his unsatisfactory work and he was called upon to submit his explanation. He was also warned to improve. Thus, it is evident that the petitioner's service during the period of probation was found to be unsatisfactory. The petitioner's service has been terminated on account of unsatisfactory work. Such termination of service while he is on probation cannot be said to be unlawful or unconstitutional as alleged by the petitioner.

6. It may further be noted that the respondent Board, by filing its affidavit, has pointed out that the

petitioner was appointed as a driver by the Gujarat State Road Transport Corporation and he had been discharging his duty as "Badli worker driver" since November, 1985. Since 1989, the petitioner has been permanently absorbed on the post of driver. Though the petition has been filed in the month of March, 1986, these facts have not been disclosed by the petitioner till the date. Such action on the part of the petitioner is highly depreciable. Since the petitioner's performance had been found to be unsatisfactory, no relief can be granted to the petitioner. Further, the petitioner has already been employed by the Gujarat State Road Transport Corporation as a driver permanently since 1989. Therefore also, no relief can be granted to the petitioner. The petition is, therefore, dismissed. Rule is discharged. The petitioner shall bear the costs of this petition. Advocate's fee for the purpose of cost is quantified to be Rs.1,500/-.

vyas./